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PTO/SB/22 (08-03)

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional) AB-165U

In re Application of Whitehurst, et al.

Application Number 10/057,116

Filed 01/24/2002

For Fully Implantable Neurostimulator for Peripheral Nerve
Stimulation as a Therapy for Chronic Pain

Art Unit 3762

Examiner Kennedy Schaetzle

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☒ One month (37 CFR 1.17(a)(1)) \$ 110.00
- ☐ Two months (37 CFR 1.17(a)(2)) \$ 430.00
- ☐ Three months (37 CFR 1.17(a)(3)) \$ 980.00
- ☐ Four months (37 CFR 1.17(a)(4)) \$ 1,530.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ _____
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-0648. A duplicate copy of this sheet is enclosed.

I have enclosed a duplicate copy of this sheet.

- I am the ☐ applicant/inventor
- ☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/08).
- ☒ attorney or agent of record. Registration Number 29,715
- ☐ attorney or agent under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

October 21, 2004

Date

Signature

681-382-1771

Telephone Number

Bryant R. Gold

Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

- ☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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PTO/SB/28 (05-03)

Approved for use 4/30/2003, OMB 0631-0031

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**Docket Number (Optional)
AB-165UIn re Application of: Whitehurst, et al.Application No.: 10/057,116Filed: January 24, 2002For: Fully Implantable Neurostimulator for Peripheral Nerve Stimulation as a Therapy for Chronic Pain

The owner, Advanced Bionics Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 8,735,475. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Signature

October 21, 2004
Date

Bryant R. Gold, Reg. No. 29,715

Typed or printed name

(760) 788-8138 or (881) 362-1771

Telephone Number

- ☒ Please charge terminal disclaimer fee of \$110.00 under 37 CFR 1.20(d), to Deposit Account No. 50-0648. ☐ I have enclosed a duplicate copy of this sheet.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/95 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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